PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	Zatloukal et al.
Application No.	:	10/560,262
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For	:	EMULATED RADIO FREQUENCY INDENTIFICATION

Examiner	:	Daniel I. Walsh
Art Unit	:	2887
Docket No.	:	120083-146181
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S BRIEF

Commissioner for Patents:

This appellant's brief is being filed under 37 CFR 41.37 in furtherance of the Notice of Appeal, filed in this case on October 21, 2010.

The fees required under Section 1.17(c), and any required request for extension of time for filing this appellant's brief and fees therefor, are dealt with in the accompanying papers.

I. REAL PARTY IN INTEREST

Varia Holdings LLC is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

None.

III. STATUS OF CLAIMS

Claims 1-40 are pending and have been finally rejected. The rejections of claims 1-40 are being appealed herein.

Claims 41-60 have been previously canceled.

No claims stand allowed.

No claims stand objected to.

IV. STATUS OF AMENDMENTS

The amendments offered in the response filed on March 24, 2010 were entered. Claims 1-40 were subsequently rejected in the Final Office Action mailed on June 22, 2010 (hereinafter referred to as "the Final Office Action"). Amendments to claim 1 that were offered in the Amendment After Final filed September 21, 2010 were not entered for purposes of appeal. A Notice of Appeal was filed on October 21, 2010, and the present appellant's brief is being filed to address the rejections set forth in the Final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The following discusses independent claims 1, 13, 21, and 33. According to 37 CFR 41.67(c)(1)(v), a concise explanation of the subject matter in the independent claims has been set forth below with reference to the specification by page and line numbers, and to the drawings, if any, by reference characters. Accordingly, the following shows claims 1, 13, 21, and 33 together with the required reference information in brackets [ ] and *italicized*. Of course, the reference numbers and other bracketed information are illustrative only and are not intended to limit the claims only to the exact embodiments shown and described in the specification and figures of the present application.

1. A method for providing a radio frequency identification (RFID) comprising:

receiving, by a mobile communications device, an instruction to transmit a first data to a RFID reader [*pg. 6, lines 3-20; pg. 14, lines 24-27; pg. 12, line 30 to pg. 13, line 4; pg. 14, lines 13-15 and 24-27; Fig. 1 mobile communication HW/SW elements 104, RFID Emulation HW/SW elements 106, RFID 110, and RFID reader 120; Fig. 2, block*

203; Fig. 3, support logic 322; Fig. 6b, list 614 and screen 612; Fig. 7, blocks 704 and 706];

switching a transceiver of the mobile communications device from a first state to a second state, the transceiver configured to output voice call signals in the first state and to output RFID signals in the second state [*pg. 6, lines 3-20; pg. 9, lines 13-14 and 25-27; pg. 11, lines 19-28; pg. 12, lines 1-15; Fig. 3, transceiver 308 and processor 302; Fig. 4, switch 404, Joint RF TX/RX 402, high frequency signal processing 410, and low frequency signal processing 408*]; and

outputting the first data by the transceiver in the second state, the transceiver outputting the first data as a radio frequency signal in a format employed by the RFID reader [*pg. 6, lines 9-28; pg. 7, lines 16-21; pg. 8, lines 4-17; pg. 11, lines 19-24; pg. 12, lines 1-3 and 12-26; pg. 13, lines 20-30; pg. 14, lines 3-5 and 24-28; Fig. 1, mobile communication HW/SW elements 104, RFID Emulation HW/SW elements 106, RFID 110, and RFID reader 120; Fig. 2, block 204; Fig. 3, transceiver 308 and processor 302; Fig. 4, switch 404, Joint RF TX/RX 402, and low frequency signal processing 408; Fig. 7, block 710*].

13. A method for providing a radio frequency identifier (RFID), comprising:

monitoring for proximal presence of a RFID reader by a mobile communication device [*pg. 8, lines 18-28; pg. 13, line 31 to pg. 14, line 12; Fig. 1, mobile communication HW/SW elements 104, RFID Emulation HW/SW elements 106, RFID 110, and RFID reader 120; Fig. 2, block 205*], the mobile communication device having a transceiver configured to output a RFID signal to the RFID reader, the transceiver being also configured to output a voice call signal for transmission at least in part over a wireless network [*pg. 6, lines 3-20; pg. 7, lines 8-15; pg. 9, lines 13-14 and 25-27; pg. 11, lines 19-28; pg. 12, lines 1-15; Fig. 3, transceiver 308 and processor 302; Fig. 4, switch 404, Joint RF TX/RX 402, high frequency signal processing 410, and low frequency signal processing 408*]; and

on detection of the RFID reader, outputting by the transceiver a data as a radio frequency signal in a format employed by the RFID reader [*pg. 6, lines 9-28; pg. 7, lines*

16-21; pg. 8, lines 4-13 and 20-28; pg. 11, lines 19-24; pg. 12, lines 1-3 and 12-26; pg. 13, line 20 to pg. 14, line 5 and 24-28; Fig. 1, mobile communication HW/SW elements 104, RFID Emulation HW/SW elements 106, RFID 110, and RFID reader 120; Fig. 2, block 206; Fig. 3, transceiver 308 and processor 302; Fig. 4, switch 404, Joint RF TX/RX 402, and low frequency signal processing 408].

21. A mobile communication device comprising:

a transmitter configured to transmit a radio frequency signal, the transmitter comprising a first signal processing section and a second signal processing section, the first signal processing section configured to output voice call signals in a first radio frequency range and the second signal processing section configured to output RFID signals in a second radio frequency range [*pg. 6, lines 3-20; pg. 9, lines 13-14 and 25-27; pg. 11, lines 19-28; pg. 12, lines 1-16; Fig. 1, mobile communication HW/SW elements 104, RFID Emulation HW/SW elements 106, RFID 110; Fig. 3, transceiver 308 and processor 302; Fig. 4, switch 404, Joint RF TX/RX 402, high frequency signal processing 410, and low frequency signal processing 408*];

a storage medium to store a first data and instructions to operate the transmitter [*pg. 8, lines 14-17; pg. 12, lines 30-32; pg. 9, lines 1-12; Fig. 3, memory 304 with operating logic 320 and RFID feature 322*], the transmitter being operated to switch between the first and second signal processing sections to selectively (a) output a first data as a RFID signal in a format employed by a RFID reader, in response to a user instruction, and (b) output a voice call signal for transmission over a wireless network [*pg. 6, lines 3-20; pg. 9, lines 13-14 and 25-27; pg. 11, lines 19-28; pg. 12, lines 1-15; Fig. 3, transceiver 308 and processor 302; Fig. 4, switch 404, Joint RF TX/RX 402, high frequency signal processing 410, and low frequency signal processing 408*]; and

a processor coupled to the transmitter and the storage to execute the instructions [*pg. 9, lines 1-5, 13-19, and 25-27; Fig. 3, processor 302; see also Fig. 4, arrows to/from processor*].

33. (Previously Presented) A mobile communication device comprising:

a transmitter configured to transmit a voice call signal in a first operational state and a RFID signal in a second operational state [*pg. 6, lines 3-20; pg. 9, lines 13-14 and 25-27; pg. 11, lines 19-28; pg. 12, lines 1-15; Fig. 3, transceiver 308 and processor 302; Fig. 4, switch 404, Joint RF TX/RX 402, high frequency signal processing 410, and low frequency signal processing 408*];

a storage medium to store a first data and instructions to switch the transmitter between the first and second operational states to selectively (a) monitor for proximal presence of a radio frequency identifier (RFID) reader [*pg. 8, lines 14-28; pg. 12, lines 30-32; pg. 9, lines 1-12; pg. 12, lines 30-32; Fig. 2, block 205; Fig. 3, memory 304 with operating logic 320 and RFID feature 322; Fig. 4, switch 404, Joint RF TX/RX 402, high frequency signal processing 410, and low frequency signal processing 408*], and on detection of a RFID reader, output a data as a RFID signal in a format employed by the RFID reader [*pg. 6, lines 9-28; pg. 7, lines 16-21; pg. 8, lines 4-13 and 20-28; pg. 11, lines 19-24; pg. 12, lines 1-3 and 12-26; pg. 13, line 20 to pg. 14, line 5 and 24-28; Fig. 1, mobile communication HW/SW elements 104, RFID Emulation HW/SW elements 106, RFID 110, and RFID reader 120; Fig. 2, block 206; Fig. 3, transceiver 308 and processor 302; Fig. 4, switch 404, Joint RF TX/RX 402, and low frequency signal processing 408*], and (b) transmit a voice call signal to another user of another communication device at least in part over a wireless network [*pg. 6, lines 3-20 pg. 7, lines 8-15; pg. 12, lines 1-11; Fig. 4, , switch 404, Joint RF TX/RX 402, and high frequency signal processing 410*; and

a processor coupled to the transmitter and the storage to execute the instructions [*pg. 9, lines 1-5, 13-19, and 25-27; Fig. 3, processor 302; see also Fig. 4, arrows to/from processor*].

37 CFR 41.37(c)(1)(v) requires "For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every ***means plus function*** and ***step plus function*** as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters"

(emphasis ours). There are ***no*** means-plus-function or steps-plus-function language in the claims for which this requirement of 37 CFR 41.37(c)(1)(v) applies.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-40 are unpatentable under 35 U.S.C. § 103 for being obvious over U.S. Patent No. 6,771,981 to Zalewski *et al.* (hereinafter "Zalewski").

Whether claims 1-40 are unpatentable under 35 U.S.C. § 103 for being obvious over Zalewski in view of U.S. Patent Application Publication No. 2004/0087273 to Perttila *et al.* (hereinafter Perttila).

VII. ARGUMENT

The rejections of claims 1-40 under 35 U.S.C. § 103 are improper because the cited references (whether singly or in combination) do not teach or suggest all of the claim limitations.

A. Claims 1-40 are allowable over Zalewski under 35 U.S.C. § 103.

On page 6 of the Final Office Action, claims 1-40 were rejected under 35 U.S.C. § 103 as being allegedly unpatentable over Zalewski. Applicants respectfully submit that the rejections are improper and should be withdrawn for at least the reasons discussed below.

1. Claims 1, 13, 21, and 33 are allowable over Zalewski under 35 U.S.C. § 103.

Consistent with a long line of judicial holdings, MPEP § 2143.03 states that "All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)." In addition, "the omission of an element and retention of its function is an indicia of unobviousness" (MPEP 2144.04, citing *In re Edge*, 359 F.2d 896, 149 USPQ 556 (CCPA 1966)).

Independent claim 1 recites, *inter alia*, the following (emphasis ours):

"***switching a transceiver*** of the mobile communications device ***from a first state to a second state***, the transceiver ***configured to output voice call signals in the first state and to output RFID signals in the second state***"

Read properly as a **whole**, as required by law, claim 1 is directed to a method for providing a radio frequency identification (RFID) to a RFID reader using a mobile communications device, which effectively emulates a RFID transponder. The method requires the mobile communication device to have "***a*** *transceiver*" that can be switched from a first state to a second state. The transceiver must be "*configured to output voice call signals in the first state and to output RFID signals in the second state.*" Thus, claim 1 requires (inter alia) the switching of "a transceiver of a mobile communication device" from a first state in which the transceiver is configured to output voice calls, to a second state in which the transceiver is configured to output RFID signals

Zalewski does not teach or suggest these features. In particular, as conceded in the Final Office Action, "Zalewski is silent to switching modes of a transceiver" (Final Office Action, pg. 3).

Zalewski discloses a changeable electronic cover for a mobile phone. The device cover has an embedded RF transponder that is responsive to interrogation by an electric field (Abstract, Fig. 2b). The device cover provides an identification number and/or other data in response to the interrogation signal (see Abstract). Zalewski discloses that the device cover 100 can be attached to a mobile phone such as mobile station 4, which has a conventional radio frequency component 19 for transmitting and receiving calls and messages (Fig. 2a; col. 6, line 66 to col. 7, line 3, "a known component of mobile phones, which is used to transmit and receive calls and messages using radio frequencies in a radio communication network, such as a GSM network, e.g. through a mobile services switching center MSC"). The device cover 100 can interface with mobile station 4 via interface contacts 180 of the device cover and data connector 20 of the mobile station, allowing the device cover to share memory with the mobile station and/or to send signals to the master control unit (MCU) 13 (col. 8, lines 8-12 and 39-56; col. 11, lines 39-58; Figs. 2a, 2b).

On pages 3-4 of the Final Office Action, the Examiner stated that the transponder of the device has circuitry to communicate with an interrogator, and that the telephone for voice communication also has processing units/circuitry for voice communication. The Examiner then asserted the "components/circuitry devices/phone including cover, etc. (RFID components and voice components for RFID and voice communication by the device) together" as teaching "the "transceiver" of the device (means to send and receive)."

Applicants respectfully disagree with the Examiner's interpretation of the conventional mobile phone transmitter and receiver in combination with the transponder of the changeable device cover as *collectively* teaching or suggesting the "transceiver of the mobile device" that is "configured to output voice call signals in the first state and to output RFID signals in the second state," as recited in claim 1. Under MPEP 2111.01, the words of a claim must be given their plain meaning. The Examiner's interpretation of "a transceiver" disregards this requirement. At the time the instant application was filed, a person having ordinary skill in the art would have understood "a transceiver of a mobile communication device" to be a transmitter and receiver combined in a single package/housing/unit and sharing at least some common circuitry for both transmission and reception located within a mobile communication device.

At a minimum, radio frequency component 19 (a conventional transmitter and receiver within a cell phone) does not appear to share common circuitry for both transmission and reception with RFID transponder 110 (a separate transponder embedded in a removable cover). On the contrary, Zalewski discloses that the transponder can transmit and receive while the mobile station in passive mode or powered down (*see e.g.,* Fig. 5A and col. 12, lines 33-39). A person having ordinary skill in the art would understand a "passive mode" to be a mode in which the cell phone does not transmit or receive (*see e.g.,* col. 11, lines 58-62; SMS messages may be received by a server while mobile station is in passive mode and sent after mobile station is back in active mode). Transmission/reception by the transponder while the mobile station in passive mode or powered down suggests that the RFID transponder 110 and radio frequency component 19 do not share common circuitry for both transmission and reception. Therefore, when the words of claim 1 are given their plain meaning as required by law, these components cannot be collectively interpreted as "a transceiver" that is "configured to output voice call signals in the first state and to output RFID signals in the second state" as recited in claim 1.

The Examiner conceded that "Zalewski is silent to switching modes of a transceiver" (Final Office Action, pg. 3). However, the Examiner also asserted that "switching between elements to switch modes broadly reads on the claim" and that "separate outputs of a shared device, with shared processing, can broadly be interpreted as switching modes of the transceiver, as both wireless outputs are tied/linked/controlled by the same central processing/circuitry" (Final Office Action, pg. 4). As discussed above, the interpretation of transponder 110 and the radio frequency component 19 as collectively disclosed by Zalewski do not collectively teach or suggest "a transceiver" that is "configured to output voice call signals in the first state and to output RFID signals in the second state." Thus, even if Zalewski could be said to teach or suggest switching between modes of operation involving a transponder and a conventional cell phone transmitter and receiver, Zalewski still does not teach or suggest switching "a transceiver" that is "of the mobile communications device" from a first state (in which the transceiver is configured to output voice call signals) to a second state (in which the transceiver is configured to output RFID signals) as recited in claim 1.

The Examiner asserted on page 11 of the Final Office Action that the drawings of the instant application were viewed as illustrating that "RFID and voice circuitry can be separate hardware/software" and that claimed "separate signal processing section" can be interpreted as "2 transceivers." Applicants respectfully disagree, and submit that the Examiner's reading of the description mischaracterizes Applicants' teaching. Figure 1 clearly shows that the hardware/software elements employed to implement the functions of voice call ***overlapping with*** the hardware/software elements employed for RFID emulation, indicating two functions in one component sharing common circuitry/software. The accompanying description of these components states that "As depicted in Fig. 1, blocks 104 and 106 "intersect" with one another. The "intersection" represents the fact that in preferred embodiments of the present invention, substantial portions of the hardware and/or software elements employed to provide a RFID, **are the same elements** employed to facilitate the primary function of device 102, i. e. to facilitate a user in communicating with another user of another communication device" (emphasis ours).

In addition, Applicants clearly disclose, in Figs. 3 and 4 and the accompanying description, a single transceiver 308 that *includes* high frequency signal processing 410 (voice

calls), low frequency signal processing 408 (RFID signals), and a switch 404 that switches between them (pg. 11, line 19 to pg. 12, line 20). A person having ordinary skill in the art would understand Applicants' disclosure as describing a single transceiver that can be switched from a first state in which it transmits voice call signals to a second state in which it transmits RFID signals.

On page 12 of the Final Office Action, the Examiner also asserted that "the mobile device itself can be broadly interpreted to function as a transceiver via the internal components, and therefore . . . the internals of the device for communication can be interpreted as the transceiver of the device." Applicants respectfully disagree. As discussed above, this interpretation is contrary to the plain meaning of the phrase "a transceiver of a mobile communication device" that is "configured to output voice call signals in the first state and to output RFID signals in the second state."

Thus, Zalewski does not teach or suggest the features of claim 1.

In addition, "the omission of an element and retention of its function is an indicia of unobviousness" (MPEP 2144.04, citing *In re Edge*, 359 F.2d 896, 149 USPQ 556 (CCPA 1966)). While Zalewski teaches an apparatus that requires a conventional mobile phone transmitter and receiver to transmit voice call signals and a RFID transponder in a removable cover to transmit RFID signals, while claim 1 recites "a transceiver of a mobile communication device" that is configured with multi-state operations to perform both of those functions. Therefore, this weighs against a determination of obviousness.

Finally, on page 2 of the Final Office Action, the Examiner alleged that "Such disclosure of a radio frequency component 18 teaches a component of a mobile communication device to output a first data, and the component being also equipped to facilitate a user in communicating with a user of another communication device, with the communication being facilitated at least in part over a wireless network." The Examiner cited col. 16, lines 35-42 (the hotel reservation example) for teaching "facilitating a user in providing an instruction to a component of a mobile communication device to output a first data" (pg. 2, Final Office Action).

On page 3, the Examiner cited the hotel reservation example described in col. 16, lines 42-47 for teaching "the output emulating output of the first data by an active RFID transponder . . . ." While Applicants respectfully disagree with these assertions, they will not be discussed further because they are directed to language that is not currently recited in claim 1.

Therefore, for at least the above reasons, claim 1 is allowable over Zalewski under 35 U.S.C. § 103.

Claim 13 is directed to a method for providing a RFID and includes recitations substantially similar to those of claim 1. Claim 13 recites, in part, "monitoring for proximal presence of a RFID reader by a mobile communication device, ***the mobile communication device having a transceiver configured to output a RFID signal to the RFID reader, the transceiver being also configured to output a voice call signal for transmission at least in part over a wireless network*** . . . ." As discussed above with regard to claim 1, Zalewski fails to teach or suggest a single transceiver that is configured to output a RFID signal and is also configured to output a voice call signal as claimed.

Therefore, for at least the same or similar reasons discussed above with regard to claim 1, claim 13 is also allowable over Zalewski under 35 U.S.C. § 103.

Claim 21 is directed to a mobile communication device comprising, in part, "a transmitter configured to transmit a radio frequency signal, . . . ***the transmitter being operated to switch between the first and second signal processing sections to selectively*** (a) ***output a first data as a RFID signal*** in a format employed by a RFID reader, in response to a user instruction, ***and*** (b) ***output a voice call signal*** for transmission over a wireless network . . . ."

Claim 33 is directed to a mobile communication device comprising, in part, "***a transmitter configured to transmit a voice call signal in a first operational state and a RFID signal in a second operational state***; a storage medium to store a first data and ***instructions to switch the transmitter between the first and second operational states*** . . . ."

Therefore, claims 21 and 23 require "a switchable transmitter of a mobile communication device" that is configured to be switched between first and second signal processing sections (claim 21) or operational states (claim 33) to output a voice call signal (first

processing section/operational state) or a RFID signal (second processing section/operational state). As discussed above with regard to claim 1, Zalewski does not teach or suggest the "transmitter of a mobile communication device" of claims 21 and 33. Moreover, the mobile communication devices of claims 21 and 33 omit the embedded transponder in the removable cover while retaining its function. This weighs against a finding of obviousness.

Therefore, claims 21 and 33 are also allowable over Zalewski under 35 U.S.C. § 103.

2. Claims 2-12, 14-20, 22-32, and 34-40 are allowable over Zalewski under 35 U.S.C. § 103.

"If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Claims 2-12, 14-20, 22-32, and 34-40 depend from claim 1, 13, 21, or 33, respectively, incorporating the limitations of their base claim(s). Therefore, claims 2-12, 14-20, 22-32, and 34-40 are allowable over Zalewski under 35 U.S.C. § 103. These claims are also allowable over Zalewski under 35 U.S.C. § 103 by virtue of their additional recitations, which are not taught or suggested by Zalewski.

B. Claims 1-40 are allowable under 35 U.S.C. § 103 over Zalewski in view of Perttila.

On page 6 of the Final Office Action, claims 1-40 were rejected under 35 U.S.C. § 103 as being allegedly unpatentable over Zalewski in view of Perttila. Applicants respectfully submit that the rejections are improper and should be withdrawn for at least the reasons discussed below.

1. Claims 1, 13, 21, and 33 are allowable over Zalewski in view of Perttila under 35 U.S.C. § 103.

Zalewski was cited as discussed above for teaching or suggesting most of the features of claim 1. The Examiner conceded that "Zalewski is silent to explicitly reciting changing a transceiver mode/sharing a transceiver" (Final Office Action, pg. 8). Paragraph [0116] of Perttila was then cited for teaching "such limitations" (Final Office Action, pg. 8).

Applicants respectfully disagree with the Examiner's characterization of Zalewski as teaching the "transceiver" of claims 1 and 13 or the "transmitter" of claims 21 and 33, which are both "of a mobile communication device," as discussed above.

Perttila fails to remedy the deficiencies of Zalewski.

Perttila discloses a mobile device with an RFID reader. RFID tags are activated by radio frequency waves emitted by the mobile terminal and transmit information to the RFID reader (paragraph 0023]). The RFID reader can use the information to direct the mobile terminal to perform an action (paragraph [0027]).

In the cited paragraph, Perttila discloses a mobile computing arrangement 900 with an RFID reader device 930. The RFID reader device 930 further includes a transceiver 932 and an antenna 934. Mobile computing arrangement 900 also includes a transceiver 922 coupled to an antenna 924 (paragraph [0115]). Perttila discloses in paragraph [0116] that:

> "It should be recognized that the transceiver 922 used to establish wireless connections between the mobile device and the network can be used as the transceiver 932 associated with the RFID reader 930. However, because the transmissions performed with the network are high-frequency signals relative to the RF signals used in connection with the RFID reader 930, ***it may not be practical or possible to share the transceiver***, although it is possible in some implementations."

The Examiner asserted this passage for teaching that a mobile device transceiver "can be used for voice (to connect the mobile device to the network) as well as to connect to the RFID reader" (Final Office Action, pg. 8). Similarly, the Examiner asserted on page 11 that Perttila teaches "sharing a common transceiver." Applicants respectfully disagree.

First, Perttila stated that "it may not be practical or possible to share the transceiver, although it is possible in some implementations." Applicant submits that in this passage, Perttila actually discourages or teaches away from combining voice and RFID circuitry as being potentially not "practical or possible."

Second, Applicants note that "[t]o render a later invention unpatentable for obviousness, the prior art must enable a person of ordinary skill in the field to make and use the later invention." *In re Kumar*, 418 F.3d 1361, 1369 (Fed. Cir. 2005). Even assuming, hypothetically and arguendo, that Perttila does not teach away from combining voice and RFID

circuitry, Perttila still does not provide any teaching or suggestion as to how the combination could be implemented with a single transceiver. A person having ordinary skill in the art would not have been enabled by the disclosure of Perttila to make and use the "transceiver" as recited in claims 1 and 13 or the "transmitter" as recited in claims 21 and 33.

Even if the above passage could be read to fairly teach or suggest "sharing a common transceiver" (Applicants do not concede this), Perttila merely suggests – at most – using a shared transceiver for voice call functions and RFID reader functions. The RFID reader and RFID tag/transponder are not analogous – one reads the other. Therefore, Perttila does not teach or suggest a single transceiver (claims 1 and 13) or transmitter (claims 21 and 33), both of a mobile communication device, configured to perform voice call functions and RFID *transponder/tag* functions (i.e., outputting data as a radio frequency signal ***to*** a RFID reader).

Finally, a person having ordinary skill in the art would lack motivation to combine the disclosures of Zalewski and Perttila in the suggested manner. Zalewski teaches a removable mobile device *cover* with an embedded RFID *transponder*, while Perttila teaches a mobile device with an embedded RFID *reader*. And neither reference, alone or in combination, teaches a single transceiver or transmitter that can be switched from outputting a voice call signal to outputting data/RFID signals to a RFID reader. Therefore, even if the Examiner's reading of Perttila is correct and Perttila could be interpreted as enabling "sharing a common transceiver" among voice call functions and RFID reader functions (Applicants do not concede this), the suggested combination of Zalewski and Perttila still does not suggest the recitations of claims 1, 13, 21, and 33.

Therefore, claims 1, 13, 21, and 33 are allowable over Zalewski and Perttila under 35 U.S.C. § 103.

2. Claims 2-12, 14-20, 22-32, and 34-40 are allowable over Zalewski and Perttila under 35 U.S.C. § 103.

Claims 2-12, 14-20, 22-32, and 34-40 depend from claim 1, 13, 21, or 33, respectively, incorporating the limitations of their base claim(s). Therefore, claims 2-12, 14-20, 22-32, and 34-40 are allowable over Zalewski and Perttila under 35 U.S.C. § 103. These claims

are also allowable over Zalewski under 35 U.S.C. § 103 by virtue of their additional recitations, which are not taught or suggested by Zalewski and Perttila.

In view of the arguments as set forth above, the Examiner's rejections of the claims should be withdrawn.

Respectfully submitted,
Schwabe, Williamson & Wyatt

/Jo Ann Schmidt/
Jo Ann Schmidt
Registration No. 62,255

JOA: joa

1420 Fifth Avenue, Suite 3400
Seattle, Washington 98101
Phone: (206) 407-1569
Fax: (206) 292-0460

VIII. CLAIMS APPENDIX

In accordance with 37 CFR 41.37(c)(1)(viii), provided herewith is an appendix containing a copy of the "claims involved in the appeal," which are claims 1-40. It is noted that canceled claims 41-60 are not "involved in the appeal," and therefore 37 CFR 41.37(c)(1)(viii) does not require a copy of these canceled claims to be included below:

1. (Previously Presented) A method for providing a radio frequency identification (RFID) comprising:

receiving, by a mobile communications device, an instruction to transmit a first data to a RFID reader;

switching a transceiver of the mobile communications device from a first state to a second state, the transceiver configured to output voice call signals in the first state and to output RFID signals in the second state; and

outputting the first data by the transceiver in the second state, the transceiver outputting the first data as a radio frequency signal in a format employed by the RFID reader.

2. (Previously Presented) The method of claim 1, wherein said transceiver comprises a first signal processing unit configured to process voice call signals and a second signal processing unit configured to process RFID signals, said switching comprising coupling the second signal processing unit to a transmission path of the transceiver.

3. (Previously Presented) The method of claim 1, wherein said first data comprises a selected one of a security key and an identifier.

4. (Previously Presented) The method of claim 3, wherein said security key comprises a selected one of a garage door key, an exterior door key, an interior door key, and a motor vehicle door key.

5. (Previously Presented) The method of claim 1, wherein said first data comprises an identifier, and said identifier comprises a selected one of a social security number, a driver's license number, an affinity program account number, and a credit card number.

6. (Original) The method of claim 1, wherein the method further comprises facilitating the user in selecting the first data from a plurality of data using the mobile communication device.

7. (Original) The method of claim 1, wherein the method further comprises facilitating provision of the first data to the mobile communication device.

8. (Previously Presented) The method of claim 7, wherein said facilitating of the provisioning of the data to the mobile communication device includes facilitating provision of at least a signaling attribute associated with the outputting of the data in the format employed by the RFID reader.

9. (Previously Presented) The method of claim 1, wherein the method further comprises:

monitoring for proximal presence of the RFID reader by the mobile communication device; and

on detection of the RFID reader by the mobile communication device, outputting by the transceiver a second data as a second radio frequency signal, the outputting emulating output of the second data by a RFID transponder of a passive type.

10. (Previously Presented) The method of claim 9, wherein said monitoring comprises sensing for a probing radio frequency signal of the RFID reader by the mobile communication device.

11. (Original) The method of claim 9, wherein said first and second data are the same data.

12. (Original) The method of claim 1, wherein the mobile communication device is a selected one of a wireless mobile phone and a personal digital assistant equipped with communication capability.

13. (Previously Presented) A method for providing a radio frequency identifier (RFID), comprising:

monitoring for proximal presence of a RFID reader by a mobile communication device, the mobile communication device having a transceiver configured to output a RFID signal to the RFID reader, the transceiver being also configured to output a voice call signal for transmission at least in part over a wireless network; and

on detection of the RFID reader, outputting by the transceiver a data as a radio frequency signal in a format employed by the RFID reader.

14. (Previously Presented) The method of claim 13, wherein said monitoring comprises sensing for a probing radio frequency signal of the RFID reader by the mobile communication device.

15. (Original) The method of claim 13, wherein said data comprises a security key.

16. (Original) The method of claim 15, wherein said security key comprises a door key.

17. (Original) The method of claim 16, wherein said door key comprises a selected one of a garage door key, an exterior door key, an interior door key, and a motor vehicle door key.

18. (Original) The method of claim 13, wherein the method further comprises facilitating provision of the data to the mobile communication device.

19. (Previously Presented) The method of claim 18, wherein said facilitating of the provisioning of the data to the mobile communication device includes facilitating provision of at least a signaling attribute associated with the outputting of the data in the format employed by the RFID reader.

20. (Original) The method of claim 13, wherein the mobile communication device is a selected of a wireless mobile phone and a personal digital assistant equipped with communication capability.

21. (Previously Presented) A mobile communication device comprising:

a transmitter configured to transmit a radio frequency signal, the transmitter comprising a first signal processing section and a second signal processing section, the first signal processing section configured to output voice call signals in a first radio frequency range and the second signal processing section configured to output RFID signals in a second radio frequency range;

a storage medium to store a first data and instructions to operate the transmitter, the transmitter being operated to switch between the first and second signal processing sections to selectively (a) output a first data as a RFID signal in a format employed by a RFID reader, in response to a user instruction, and (b) output a voice call signal for transmission over a wireless network; and

a processor coupled to the transmitter and the storage to execute the instructions.

22. (Original) The device of claim 21, wherein said first data comprises a selected one of a security key and an identifier.

23. (Original) The device of claim 22, wherein said first data comprises a security key, and said security key comprises a door key.

24. (Original) The device of claim 23, wherein said door key comprises a selected one of a garage door key, an exterior door key, an interior door key, and a motor vehicle door key.

25. (Original) The device of claim 22, wherein said first data comprises an identifier, and said identifier comprises a selected one of a social security number, a driver's license number, an affinity program account number, and a credit card number.

26. (Original) The device of claim 21, wherein the instructions are further designed to facilitate the user in selecting the first data from a plurality of data, and instructing said output.

27. (Original) The device of claim 21, wherein the instructions are further designed to facilitate provision of the first data to the mobile communication device.

28. (Original) The device of claim 27, wherein the instructions are further designed to include with said facilitating, provisioning of at least a signaling attribute associated with the outputting of the first data in the form of a radio frequency signal.

29. (Previously Presented) The device of claim 21, wherein the instructions are further designed to

monitor for proximal presence of the RFID reader; and

on detection of the RFID reader, operate the transceiver to output a second data as a second RFID signal.

30. (Original) The device of claim 29, wherein the instructions are further designed to sense for a probing radio frequency signal of the RFID reader.

31. (Original) The device of claim 29, wherein said first and second data are the same data.

32. (Previously Presented) The device of claim 21, wherein the mobile communication device is a selected one of a wireless mobile phone and a personal digital assistant equipped with communication capability.

33. (Previously Presented) A mobile communication device comprising:

a transmitter configured to transmit a voice call signal in a first operational state and a RFID signal in a second operational state;

a storage medium to store a first data and instructions to switch the transmitter between the first and second operational states to selectively (a) monitor for proximal presence of a radio frequency identifier (RFID) reader, and on detection of a RFID reader, output a data as a RFID signal in a format employed by the RFID reader, and (b) transmit a voice call signal to another user of another communication device at least in part over a wireless network; and

a processor coupled to the transmitter and the storage to execute the instructions.

34. (Original) The device of claim 33, wherein said instructions are further designed to sense for a probing radio frequency signal of the RFID reader.

35. (Original) The device of claim 33, wherein said data comprises a security key.

36. (Original) The device of claim 35, wherein said security key comprises a door key.

37. (Original) The device of claim 36, wherein said door key comprises a selected one of a garage door key, an exterior door key, an interior door key, and a motor vehicle door key.

38. (Original) The device of claim 33, wherein the instructions are further designed to facilitate provision of the data to the mobile communication device.

39. (Original) The device of claim 38, wherein the instructions are further designed to include with said facilitating, provisioning of at least a signaling attribute associated with the outputting of the data in the form of a radio frequency signal.

40. (Original) The device of claim 33, wherein the mobile communication device is a selected of a wireless mobile phone and a personal digital assistant equipped with communication capability.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.